

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

WILLIAM BANGHART,

Plaintiff,

v.

NEW YORK BLOWER COMPANY,

Defendant.

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CAUSE NO. 3:11-CV-307 JD

**REPORT AND RECOMMENDATION**

On August 2, 2011, this matter was referred to the undersigned pursuant to 28 U.S.C. § 636(b)(1)(B) to conduct hearings, including evidentiary hearings, and submit proposed findings of fact and recommendations for the disposition of *pro se* Plaintiffs' complaint. On August 29, 2011, the Court ordered the parties to submit separate status reports for the purposes of establishing a case management schedule. After receiving no response, this Court issued an order to show cause directing Plaintiffs to explain why they failed to comply with this Court's order and why their case should not be dismissed for failure to prosecute their claim. As of this date, Plaintiffs have still not responded to this Court's initial order or the order to show cause, despite this Court's warning pursuant to Timms v. Frank, 953 F.2d 281, 285-86 (7th Cir. 1992) and Lewis v. Faulkner, 689 F.2d 100 (7th Cir. 1982), that failure to do so may result in a dismissal of their case.

Under Fed. R. Civ. P. 41, a plaintiff's case may be dismissed for his failure to prosecute his claim or to comply with court orders. Plaintiffs have failed to comply with two court orders, and has provided no written documentation explaining their inaction. This Court can only

assume that Plaintiffs have abandoned their case. Consequently, for the aforementioned reasons, this Court **RECOMMENDS** that Plaintiffs' case be **DISMISSED WITHOUT PREJUDICE**.

**NOTICE IS HEREBY GIVEN that within ten (10) days after being served with a copy of this recommended disposition a party may serve and file specific, written objections to the proposed findings and/or recommendations. Fed.R.Civ.P. 72(b). FAILURE TO FILE OBJECTIONS WITHIN THE SPECIFIED TIME WAIVES THE RIGHT TO APPEAL THE DISTRICT COURT'S ORDER.**

**SO ORDERED.**

Dated this 10th day of November, 2011.

S/Christopher A. Nuechterlein  
Christopher A. Nuechterlein  
United States Magistrate Judge

cc: William G Banghart  
17159 Tomahawk Trl.  
Plymouth, IN 46563